



CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 16, 2007

ITEM NUMBER:

SUBJECT: NORTH COSTA MESA HIGH-RISE RESIDENTIAL PROJECTS:

- OVERRULE OF AIRPORT LAND USE COMMISSION DETERMINATION
- GENERAL PLAN AMENDMENT GP-06-02
- NORTH COSTA MESA SPECIFIC PLAN AMENDMENT SP-06-02
- ZONING CODE AMENDMENT CO-06-05
- PRELIMINARY MASTER PLANS: PA-05-53 FOR SEGERSTROM TOWN CENTER, PA-05-52 FOR ORANGE COUNTY MUSEUM OF ART, PA-05-47 FOR SYMPHONY TOWERS, AND PA-05-50 FOR PACIFIC ARTS PLAZA.

DATE: JANUARY 2, 2007

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: CLAIRE L. FLYNN, AICP, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: CLAIRE FLYNN, (714) 754-5278

RECOMMENDATION

1. Override the Orange County Airport Land Use Commission's Determination
(*Four-fifths vote required for override*);

And as recommended by the Planning Commission,

2. Approve General Plan Amendment GP-06-02.
3. Approve North Costa Mesa Specific Plan Amendment SP-06-02.
4. Give first reading to Zoning Code Amendment CO-06-05.
5. Approve the following Preliminary Master Plans:
 - PA-05-53 for Segerstrom Town Center
 - PA-05-52 for Orange County Museum of Art
 - PA-05-47 for Symphony Towers
 - PA-05-50 for Pacific Arts Plaza.

BACKGROUND

On August 14, 2006, the Planning Commission held its first public hearing to receive public comments on the Draft Program EIR. On September 11, 2006, the Planning Commission recommended approval of the proposed projects on a 5-0 vote.

On November 16, 2006, the Orange County Airport Land Use Commission (ALUC) determined the proposed projects to be inconsistent with the John Wayne Airport Environs Land Use Plan (AELUP) on a 4-2 vote. Although the ALUC staff recommended that the proposed high-rises be found conditionally consistent with the Airport Environs Land Use Plan, ALUC staff also provided an alternative recommendation of inconsistency. The ALUC took action on the inconsistency determination.

On November 21, 2006, Council certified the Final EIR No. 1052 (SCH#2006011077) for the North Costa Mesa High-Rise Residential Projects, took action to notify the ALUC and Caltrans Division of Aeronautics of the Council's intent to overrule the ALUC Determination, and continued the meeting to January 16, 2007 (Council meeting minutes, Attachment 14).

ANALYSIS

Project Description

The North Costa Mesa High-Rise Residential Projects consists of five development sites located as follows (Vicinity Map, Attachment 1):

- 3400/3420 Bristol Street (Site 1 – Segerstrom Town Center)
- 605 Town Center Drive (Site 2 – Orange County Museum of Art)
- 580 Anton Boulevard (Site 3 – The Californian at Town Center)
- 585 Anton Boulevard (Site 4 – Symphony Towers)
- 675 Anton Boulevard (Site 5 – Pacific Arts Plaza).

Master Plans

In brief, the proposed project generally involves demolition of existing structures, modification of unbuilt entitlements, and/or conversion of unbuilt entitlements for the construction of new high-rise residential condominium buildings collectively totaling 1,269 dwelling units, with ancillary commercial/retail uses.

- *Site 1 – Segerstrom Town Center* by South Coast Plaza Partners: Preliminary Master Plan PA-05-53 for: (a) demolition of 84,025 sq.ft. office buildings and (b) conversion of a maximum of 103,355 sq.ft. of unbuilt office entitlement for the construction of a high-rise residential building (306 feet above mean sea level/maximum of 225 units), resulting in 233,170 sq.ft. of office space at 3420 Bristol Street in a TC zone; (a) demolition of 31,500 sq.ft. of theaters and (b) construction of a maximum of 50 additional residential high-rise units atop an unbuilt 200-room hotel entitlement at 3400 Bristol Street. (Preliminary Master Plan resolution provided as Attachment 5.)
- *Site 2 – Orange County Museum of Art* by the Orange County Performing Arts Center: Preliminary Master Plan PA-05-52 for construction of a maximum of 80 residential high-rise units atop an unbuilt 140,000 sq.ft. museum building entitlement (maximum 306' above mean sea level) at 605 Town Center Drive. (Preliminary Master Plan resolution provided as Attachment 6.)
- *Site 3 – The Californian at Town Center* by Fifield Properties: Final Master Plan PA-05-48 for: (a) demolition of 21,349 sq.ft. of Lakes Pavilions Retail Center and (b) construction of a maximum of 250 residential high-rise units within two 25-story residential high-rises (maximum 306' above mean sea level) with additional 2,350 sq.ft. of ancillary retail at 580 Anton Boulevard. Approval of a Vesting Tentative Tract Map VT-17017 is also requested.
- *Site 4 – Symphony Towers* by J.K. Sakioka Company/Stockbridge/South Coast/AMS Craig: Preliminary Master Plan PA-05-47 for: (a) demolition of 17,529 sq.ft. of existing restaurants, (b) conversion of an unbuilt 300-room hotel entitlement, and (c) construction of a maximum of 484 residential high-rise units within two 24-story high

rises (maximum 306' and 206' above mean sea level) and two 6-story midrises, with additional 6,000 sq.ft. of ancillary retail at 585 Anton Boulevard. (Preliminary Master Plan resolution provided as Attachment 7.)

- *Site 5 – Pacific Arts Plaza* by Maguire Properties: Preliminary Master Plan PA-05-50 for: (a) demolition of a 67,450 sq.ft. office building and (b) construction of a high-rise residential building (maximum 320' above mean sea level, a maximum 180 residential high-rise units at 675 Anton Boulevard. (Preliminary Master Plan resolution provided as Attachment 8.)

Other Discretionary Approvals

Please note: This staff report provides new discussion to supplement the report provided to Council at the November 21, 2006. Please refer to the previous report for detailed information and exhibits to Council resolutions on the proposed high-rise projects.

In addition to the required overrule of the ALUC Determination, the proposed project also requires the following:

1. General Plan Amendment GP-06-02
2. North Costa Mesa Specific Plan Amendment SP-06-02
3. Zoning Code Amendment CO-06-05

The General Plan Amendment and North Costa Mesa Specific Plan resolutions are updated to reflect the ALUC overrule and certification of the Final EIR. These resolutions are provided as Attachments 3 and 4. The Zoning Ordinance is provided as Attachment 4B for reference purposes; there were no changes to the Ordinance. However, the exhibits to all of these resolutions are provided in City Council staff reports of November 21, 2006 are also unchanged and therefore not attached herein. Please refer to the 11/21/2006 Council staff reports for these exhibits.

ALUC and Caltrans Division of Aeronautics Letters

Pursuant to State law, the City has given a 45-day advance notice to the Department of Transportation (Caltrans) Division of Aeronautics and Orange County ALUC of the City's intent to overrule the ALUC Determination. A four-fifths vote of the Council is required to overrule the ALUC, and this action must occur prior to any action on the proposed projects.

The Caltrans Division of Aeronautics and ALUC responded to the Council's intent to overrule the ALUC Determination, and their responses are summarized as follows:

- 1) *Caltrans Division of Aeronautics determined that the City's proposed overrule findings adequately complies with State law.* Caltrans Division of Aeronautics submitted a comment letter dated December 29, 2006. State law requires that the Caltrans Division of Aeronautics must find and determine that the overrule findings are in accordance with State law (Public Utilities Code Section 21670). Specifically, the Division of Aeronautics must determine that the findings show evidence that the city is minimizing the public's exposure to excessive noise and safety hazards within areas around public airports.

In summary, Caltrans Division of Aeronautics concluded in its letter that the proposed overrule findings “adequately meet the criteria of Public Utilities Code Section 21670.” Therefore, Caltrans Division of Aeronautics has determined that the City is in compliance with State law in its action to overrule the ALUC Determination, and that the Council findings show evidence that the City of Costa Mesa is minimizing the public’s exposure to excessive noise and safety hazards within the North Costa Mesa area around John Wayne Airport . Furthermore, as recommended by the Caltrans Division of Aeronautics letter, the proposed projects are conditioned to comply with conditions of the FAA No Hazard Determinations (Caltrans Letter, Attachment 11).

- 2) The ALUC believed that the proposed buildings will increase the public exposure to safety hazards and provided justifications for finding the proposed projects inconsistent with the JWA AELUP. The ALUC comment letter elaborated on the basis of the ALUC Determination of inconsistency. In summary, the ALUC was concerned with the cumulative effect of multiple high-rise projects in the area, the introduction of new residential uses in the area, and impacts to helicopter/aircraft activity. The ALUC believed that Costa Mesa high-rises adversely affect air safety. The ALUC found that the reduced building heights of the new structures would mitigate the adverse effect to a degree, but the ALUC believed that reduced building heights would not eliminate the ALUC’s perception of an adverse effect. Therefore, the ALUC concluded that new high-rise buildings would increase the public exposure to safety hazards (ALUC Letter and Meeting Minutes, Attachment 11B).

While Caltrans Division of Aeronautics commended the ALUC’s attempts to ensure compatible land uses in the vicinity of John Wayne Airport, the Division of Aeronautics determined that the Council’s proposed overrule findings complied with State law.

Staff does not believe that any new or substantive information was presented by the ALUC comment letter. Staff has finalized the Council resolution for the overrule to address issues raised in the ALUC letter. The City Attorney has reviewed the ALUC comment letter and approved the Council resolution for the overrule as to form (Attachment 2).

Justifications for Overrule

Staff recommends that Council overrule the ALUC Determination for the following reasons:

- State law indicates that the ALUC serves only as an “advisory body” to the City Council. Only the Costa Mesa City Council, and not the ALUC, has the authority to make land use decisions of this nature in the City of Costa Mesa. Other Cities including Irvine, Lake Forest, and Santa Ana have overruled the ALUC in recent years.
- Caltrans Division of Aeronautics determined that City Council’s intent to overrule the ALUC complies with State Law.
- The Federal Aviation Administration is the single Authority on air navigation safety and has issued official No Hazard Determinations for all proposed buildings at reduced heights. The Airport Environs Land Use Plan declares the FAA as the single “Authority” to determine project impacts on airport or aeronautical operations. The FAA has found that the proposed buildings at reduced heights (ranging from 320 feet to 306 feet above mean sea level) would not adversely affect air safety.

- Alan Murphy, Airport Director, submitted a letter to the ALUC expressing hope that the ALUC would consider a consistency determination for the proposed projects. Alan Murphy's letter indicated that the City of Costa Mesa and JWA have reached agreement with respect to a general form for a Grant of Avigation Easement that will be dedicated to the County of Orange as proprietor of JWA, in connection with project approvals by the City. The letter also expressed hope that the ALUC would seriously consider a finding of consistency for the North Costa Mesa High Rise Residential projects (Attachment 10).

Implications of Overrule

Following are implications to the overrule of the ALUC Determination:

- The City will retain its status as a consistent agency with the AELUP. Overriding the ALUC decision does not affect the City's status as a consistent agency. The City will not lose its consistency status by completing the override process.
- The City will not bear any liability for overruling the ALUC decision. The override process will result in the airport operator's immunity from liability once a public agency overrides a determination of inconsistency. However, the City Attorney's office has completed a legal analysis of the City's liability and found that the City will not bear any liability from completing the overrule process.

CONDITIONS OF APPROVAL

The mitigation monitoring program provides the conditions of approval and mitigation measures, and this program was previously provided as part of the master plan resolutions in the Council staff reports of November 21, 2006. This mitigation monitoring program is attached to the Preliminary Master Plan resolution (Attachment 5).

If Council decides to include additional conditions of approval to address affordable housing, public art, and green buildings, these conditions may be added in the Council's motion to adopt the master plan resolutions. Following is a discussion of these issues.

Affordable Housing Impact Fee Program

Following is a summary of the affordable housing issues:

1. Homeowner's association dues of \$1,000/month or greater would eliminate the feasibility of affordable housing in high-rise condominiums. It is unlikely that a homeowner's association would be willing or able to subsidize low-income persons at an estimated cost of \$1,000/month. Staff does not consider high-rise residential development as suitable for inclusionary housing/workforce housing.
2. City does not mandate affordable housing for these high-rise projects. The City currently does not mandate the inclusion of affordable housing in conjunction with new housing development, nor does the City require the payment of an in-lieu fee for the provision of affordable housing. Therefore, staff cannot place such a requirement on the proposed high-rise residential projects. If Council desires that a mandatory inclusionary affordable

program be developed for the City as part of the next Housing Element update (occurring 2007/2008), Council may direct staff to do so.

3. *Affordable housing development impact fee may be imposed as a condition of approval.*

Because the proposed projects involve a General Plan amendment, Council may impose an affordable housing requirement with a condition of approval. Such a condition could require an in-lieu fee (to be determined by a development impact fee study completed in two years).

Council may decide to add the following condition of approval:

"Prior to issuance of building permits, the applicant shall pay an affordable housing in-lieu fee pursuant to the Affordable Housing Fee Program, if such a program is established by the time of permit issuance (Sites 1-5)."

A memorandum on the process for adopting development impact fees is provided as Attachment 9.

Library Services Impact Fee Program

The introduction of new residents from the high-rise condominium projects will increase demand on library services. The Program EIR identified a cumulatively significant impact on library services that could not be mitigated below a level of significance.

Therefore, the Planning Commission added a condition of approval related to library impacts:

"Prior to issuance of building permits, the project applicant shall pay a library services impact fee for the development costs for expanded or new library facilities pursuant to the Library Services Impact Fee Program, if such a program is established by the City of Costa Mesa by the time of permit issuance (Sites 1-5)." Council may modify or remove this condition of approval.

Green Buildings

"Green" building techniques involve the practice of increasing efficiency by carefully conserving energy and water resources. In many cases a relatively small investment can mean a large savings on utility bills and stress relief for common infrastructure. The applicants have indicated that they would be incorporating green building techniques into the high-rise residential development that may include, but not be limited to, the following:

- Energy Star qualified windows and skylights which reduce interior condensation and prevent interior window sill degradation.
- Faucet aerators and high efficiency shower heads which provide the same pressure and volume as regular faucets but with less water flow.
- Energy Star rated roofing products.
- Solar power systems.
- Low-flow toilets.
- Green ("planted") roofs/green decks
- Reclaimed water usage in landscaped areas.

Council may decide to add the following condition of approval:

"The applicant shall incorporate green building design features as part of the residential project to conserve energy and water resources to the satisfaction of the City's Development Services Director and Building Official. Such green building features may include, but not be limited to, Energy Star qualified appliances, windows, and skylights, faucet aerators, high-efficiency shower heads, energy-efficient rated roofing productions, photovoltaic systems, and green roofs/decks."

Public Art

The applicants are interested in providing art in the form of a water feature, freestanding sculpture, or other artwork as part of the proposed high-rise development. The artwork is expected to be privately owned and maintained, similar to all other artwork in the Theater Arts District Plan. However, viewing of proposed artwork will be accessible to the general public. Proposed artwork is yet to be determined and will be defined at the time of final master plan submittal. Staff notes there is a substantial amount of public art existing in the Theater and Arts District, where Sites 1, 2, and 5 are located.

Council may add the following condition of approval to the two sites outside of the Theater and Arts District to ensure that public artwork is provided as part of the high-rise residential projects: Council may also place this condition on all five sites.

"The applicant shall include privately owned and maintained artwork that is visible to the general public. The artwork and its location shall be identified during the final master plan approval process, and shall be adopted as an integral element of the final master plan."

Aviation-Related Conditions

Staff is highlighting two important updates to the aviation-related conditions of approval:

1. *Condition requiring future, voluntary, ALUC referral for these proposed high-rise buildings has been removed.* Many of these aviation-related conditions are suggested by Alan Murphy, JWA Airport Director, in his letter to the ALUC. Staff has included all of Mr. Murphy's recommended conditions of approval, with the exception of a condition requiring that the City refer revised development projects which request additional building height to the ALUC for review.

Given the ALUC's finding of inconsistency for the currently proposed buildings, staff does not believe it is necessary to impose a condition requiring future ALUC referral for these projects because: (1) the City requires a valid and current FAA No Hazard Determination for all high-rise structures prior to issuance of a building permit, and (2) the ALUC would not have jurisdiction on these projects if they are consistent with the North Costa Mesa Specific Plan and General Plan.

However, the City shall continue to refer area specific projects involving General Plan and Specific Plan amendments to the ALUC for review, as required by the JWA AELUP. Therefore, in compliance with the State law, future revisions in building height will not require ALUC referral if the project does not exceed the North Costa Mesa Specific Plan limits (as shown in Table B below) and does not require a General Plan amendment.

Table 1 NORTH COSTA MESA SPECIFIC PLAN HEIGHT LIMITS	
Project Site	Specific Plan Height Limit
Segerstrom Town Center buildings (Site 1) 3400 and 3420 Bristol Street	315' AGL
Orange County Museum of Art (Site 2) 605 Town Center Drive	315' AGL
The Californian at Town Center (Site 3) 580 Anton Boulevard	280' AGL
Symphony Towers (Site 4) 585 Anton Boulevard	306' AGL
Pacific Arts Plaza (Site 5) 675 Anton Boulevard	315' AGL

2. The Division of Aeronautics requested that the conditions reflect that the FAA is the single authority for no hazard determinations. The conditions originally referred to an alternative process, involving aeronautical studies by qualified aeronautical engineers certified by the FAA, to seek a finding of no hazard. The Division of Aeronautics staff have indicated that there is no such process outside the FAA's review process. Therefore, the revised conditions reflect that the FAA is the single authority to make no hazard determinations and that the applicant must comply with the conditions of the FAA No Hazard Determinations.

Please refer to the mitigation measure monitoring program attached to the preliminary master plan resolutions for all conditions of approval and mitigation measures.

Development Options in North Costa Mesa Specific Plan

It is important to note the North Costa Mesa Specific Plan amendment will preserve two development options in place for three of the project sites: (1) the original entitlement and (2) the proposed high-rise residential project.

For the following three sites, the proposed project presents an alternative to an existing building(s) or of an existing entitlement that was previously-approved by Council:

1. Segerstrom Town Center (Site 1) – High-Rise residential projects are an alternative to the 200-key hotel and 336,525 sq.ft. office building entitlement.
2. Symphony Towers (Site 4) – High-rise residential project is an alternative to a 300-key hotel entitlement and two existing restaurants.
3. Pacific Arts Plaza (Site 5) – High-rise residential project is an alternative to the existing 67,450 sq.ft. Bank of America building.

Two trip budgets corresponding to each development option are established in the Specific Plan. The Specific Plan allows the maximum FAR, building square footage, and trip budgets, as applicable, to increase in direct relation to the decrease in the maximum number of high-rise residential units.

This “sliding scale” provides flexibility in mixed-use development options should the property owner decide to abandon or modify the high-rise residential option. However, the Specific Plan establishes maximum trip budgets that cannot be exceeded to ensure that any single development option is still within the overall development capacity of the General Plan.

ENVIRONMENTAL DETERMINATION

Final Program EIR No. 1052 was prepared in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines. Council certified the Program EIR on November 21, 2006 (Resolution, Attachment 13). The Final Program EIR and technical appendices may also be downloaded from the City’s website at: www.ci.costa-mesa.ca.us.

LEGAL REVIEW

The City Attorney’s office has approved the Council resolutions and ordinance as to form. These resolutions are attached to the Council report of November 21, 2006. Staff finalized the Council resolution for the ALUC overrule to address/clarify issues raised in the ALUC letter, and the City Attorney’s office has also approved the resolution as to form (Attachment 2).

ALTERNATIVES

Council may consider the following alternatives:

1. Overrule the ALUC Determination (4/5ths vote required) and, as recommended by the Planning Commission, Approve General Plan Amendment GP-06-02, NCMSP Amendment SP-06-02, and Zoning Code Amendment CO-06-05, and Preliminary Master Plans.

State Law requires a four-fifths vote to overrule the ALUC. All other discretionary approvals require Council majority. Council may decide to add conditions of approval related to affordable housing, public art, and green buildings when taking action on the preliminary master plans. A condition of approval related to library services has already been included by the Planning Commission, but this condition may be modified or removed by Council.

These actions will allow the applicants to proceed with final master plans and/or development of high-rise residential in the project area as an option to the existing General Plan built and unbuilt entitlements.

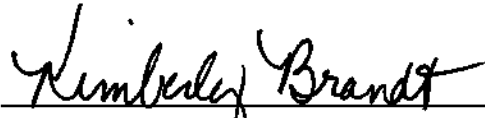
2. Deny discretionary approvals. This action would prohibit high-rise residential development in the North Costa Mesa Specific Plan area. The applicants would be precluded from implementing the proposed high-rise structures, and the existing General Plan unbuilt entitlements will not include high-rise residential development.

CONCLUSION

When Council accepted the General Plan screening requests for the five high-rise residential projects for processing, Council stressed the importance of the proposals to be within the development capacity of the General Plan, to feature ownership units, and to exhibit architectural design excellence showcasing the City's cultural arts center. The proposed projects comply with these important objectives. Additionally, the FAA and John Wayne Airport Director have indicated that the proposed projects would not present a hazard to air navigation safety or flight operations at John Wayne Airport.



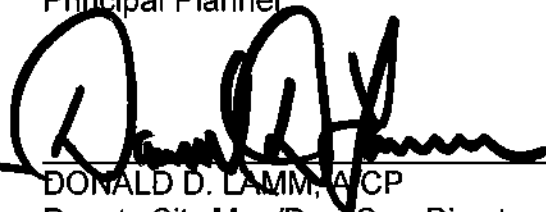
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Deputy City Mgr./Dev. Svs. Director

Attachments: Attached to the staff report

1. Illustrative Map Exhibit of Proposed High-Rise Buildings
2. Resolution for Overrule of ALUC Determination
3. Resolution for General Plan Amendment
4. Resolution for NCMSP Amendment
- 4B. Zoning Ordinance
5. Resolution for Preliminary Master Plan PA-06-53 – Segerstrom Town Center
6. Resolution for Preliminary Master Plan PA-06-52 – Museum of Art
7. Resolution for Preliminary Master Plan PA-06-47 – Symphony Towers
8. Resolution for Preliminary Master Plan PA-06-50 – Pacific Arts Plaza
9. Staff memorandum on development impact fees dated 12/02/2007
10. Alan Murphy letter to ALUC dated 11/09/2006
11. Caltrans Division of Aeronautics dated 12/29/2006
- 11B. ALUC Comment letter dated 12/15/2006
12. City Manager's letter to ALUC and Caltrans dated 11/27/2006
13. Council Resolutions for Intent to Overrule ALUC and EIR Certification
14. Council meeting minutes of 11/21/2006

Previously Provided to City Council

- City Council Staff Reports of November 21, 2006, including all approval resolutions for all project-related discretionary actions
- Planning Commission Staff Reports of September 11, 2006
- Final Program EIR: Responses to Comments and Errata Pages of Program EIR
- Draft Program EIR No. 1052, Errata, and Responses to Comments

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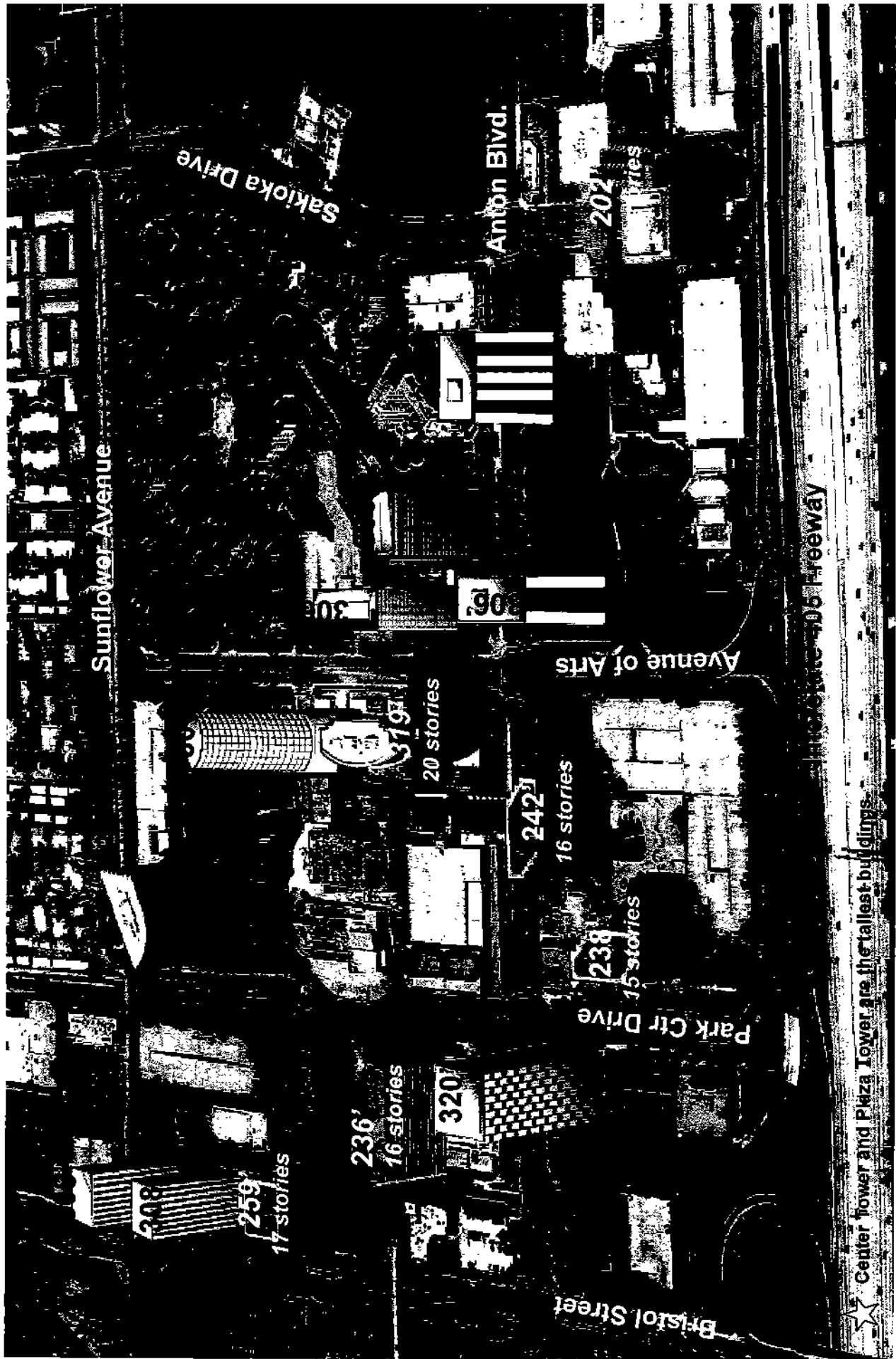
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NOTES: All heights shown as above mean sea level; Illustrative Only – Not to Scale;
Maximum heights of proposed residential high-rises pursuant to FAA No Hazard Determination.

Attachment 2

Council Resolution for Overrule of ALUC Determination

RESOLUTION NO. 07- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA TO OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE PROPOSED NORTH COSTA MESA HIGH-RISE RESIDENTIAL PROJECTS (INCLUDING GENERAL PLAN AMENDMENT AND SPECIFIC PLAN AMENDMENT) ARE INCONSISTENT WITH THE 2002 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN.

WHEREAS, the City Council of the City of Costa Mesa adopted the 2000 General Plan on January 22, 2002;

WHEREAS, the Planning Commission of the City of Costa Mesa adopted the North Costa Mesa Specific Plan by Resolution No. 94-67 in July 1994;

WHEREAS, by its very nature, the General Plan and North Costa Mesa Specific Plan need to be updated and refined to account for current and future community needs;

WHEREAS, the proposed North Costa Mesa High Rise Residential projects analyzed in Final Program EIR Number 1052 involve the construction of high-rise residential buildings by five different developers at the following development sites: (a) 3400/3420 Bristol Street (Site 1 – Segerstrom Town Center by South Coast Plaza Partners); (b) 605 Town Center Drive (Site 2 – Orange County Museum of Art by Orange County Performing Arts Center); (c) 580 Anton Boulevard (Site 3 – The Californian at Town Center by Fifield Properties); (d) 585 Anton Boulevard (Site 4 – Symphony Towers by Sakioka/Stockbridge/South Coast/AMS Craig); and (e) 675 Anton Boulevard (Site 5 – Pacific Arts Plaza by Maguire Properties);

WHEREAS, the proposed North Costa Mesa High Rise Residential projects include the following discretionary approvals: (a) General Plan Amendment GP-06-02, (b) Zoning Code Amendment CO-06-05; (c) North Costa Mesa Specific Plan Amendment SP-06-02, (d) Preliminary Master Plan PA-05-53 for Segerstrom Town Center, (e) Preliminary Master Plan PA-05-52 for Orange County Museum of Art, (f) Preliminary Master Plan PA-05-47 for Symphony Towers, (g) Preliminary Master Plan PA-05-50 for Pacific Arts Plaza, (h) Final Master Plan PA-05-45/Vesting Map VT-17017 for The Californian at Town Center;

WHEREAS, the proposed North Costa Mesa High Rise Residential projects include the following building height limits for the master plans and overall Specific Plan areas as shown in Table 1:

Table 1 HEIGHT LIMITS		
Project Site	Master Plan Building Height Limit	Specific Plan Height Limits
Segerstrom Town Center buildings (Site 1) 3400 and 3420 Bristol Street	308' AMSL 271'-275' AGL	315' AGL
Orange County Museum of Art (Site 2) 605 Town Center Drive	306' AMSL 275' AGL	315' AGL
The Californian at Town Center (Site 3) 580 Anton Boulevard	306' AMSL 271' AGL	280' AGL
Symphony Towers (Site 4) 585 Anton Boulevard	306' & 206' AMSL 272' & 172' AGL	306' AGL
Pacific Arts Plaza (Site 5) 675 Anton Boulevard	320' AMSL 287' AGL	315' AGL

WHEREAS, California Public Utilities Code Section 21676(b) requires the City of Costa Mesa to refer the proposed project to the Orange County Airport Land Use Commission (ALUC) for consistency with the Airport Environs Land Use Plan;

WHEREAS, at a duly-noticed public hearing on November 16, 2006, the ALUC found the proposed project to be inconsistent with the AELUP on a 4-2 vote;

WHEREAS, pursuant to Public Utilities Code Sections 21670 and 21676, the City of Costa Mesa may, after a public hearing, propose to overrule the ALUC by a four-fifths vote of the City Council, if the City of Costa Mesa makes specific findings that the proposed project is consistent with the purposes of Section 21670;

WHEREAS, at a duly-noticed public hearing on November 21, 2006, the Costa Mesa City Council took action by a 5-0 to notify the ALUC of the Council's intent to overrule the ALUC's Determination of Inconsistency for the proposed North Costa Mesa High-Rise Residential projects by adoption of Resolution No. 06-93.

WHEREAS, pursuant to California Public Utilities Code Section 21676, the City provided 45-day advance notice to the Department of Transportation Division of Aeronautics and the ALUC of the Council's intent to overrule the ALUC Determination in a letter dated November 27, 2006;

WHEREAS, on December 15, 2006, Chairman Gerald Bresnahan on behalf of the ALUC sent a comment letter to the City within the State mandated 30-day period to receive comments. This letter provided additional comments and information related to the ALUC Determination of inconsistency;

WHEREAS, on December 29, 2006, Chris Ferrell of the California Department of Transportation (Caltrans) Division of Aeronautics sent a comment letter to the City within the State mandated 30-day period to receive comments. The Caltrans Division of Aeronautics' letter described the agency's responsibility to examine the Council's findings for the overrule action and to make a determination of consistency of those findings with the purposes of the statute as set forth in Public Utilities Code Section 21670;

WHEREAS, Caltrans Division of Aeronautics determined that the City Council's proposed override findings adequately met the criteria of Public Utilities Code Section 21670;

WHEREAS, the City Council considered the ALUC's and Department of Transportation's Division of Aeronautics' comment letters in their entirety prior to rendering a final decision to override the ALUC Determination, and these letters are included in the City Council staff report of January 16, 2007 and are retained as part of the final administrative record;

NOW, THEREFORE, the Costa Mesa City Council **DOES HEREBY RESOLVE** to override the ALUC Determination that the proposed North Costa Mesa High-Rise Residential projects (inclusive of General Plan Amendment GP-06-02 and North Costa Mesa Specific Plan Amendment SP-06-02) are inconsistent with the 2002 John Wayne Airport Environs Land Use Plan.

BE IT FURTHER RESOLVED that the City Council **DOES HEREBY ADOPT** the required findings in support of the City's override of the ALUC Determination, as shown in Exhibit "A", FINDINGS.

PASSED AND ADOPTED by the City Council of the City of Costa Mesa at a public hearing held on the 16th day of January, 2007.

ALLAN MANSOOR
MAYOR OF THE CITY OF COSTA MESA

ATTEST:

CITY CLERK OF THE CITY OF COSTA MESA

EXHIBIT "A"**FINDINGS**

The Costa Mesa City Council makes the following findings as stated in Section 21670 and required by Section 21676 of the Public Utilities Code as follows:

- A. Section 2.1.3 of the John Wayne Airport Environs Land Use Plan (AELUP) indicates that the Airport Land Use Commission recognizes the Federal Aviation Administration (FAA) as the single "Authority" for analyzing project impact on airport or aeronautical operations, or navigational-aid siting, including interference with navigational-aids or published flight paths and procedures. The AELUP also indicates that the Commission considers the FAA as the "Authority" for reporting results of such studies and project analyses. The FAA No Hazard Determinations are described in Table A.

Table A FAA NO HAZARD DETERMINATIONS	
Project Site	Building Height Limit
Segerstrom Town Center buildings (Site 1) 3400 and 3420 Bristol Street	308' AMSL 271'-275' AGL
Orange County Museum of Art (Site 2) 605 Town Center Drive	306' AMSL 275' AGL
The Californian at Town Center (Site 3) 580 Anton Boulevard	306' AMSL 271' AGL
Symphony Towers (Site 4) 585 Anton Boulevard	306' & 206' AMSL 272' & 172' AGL
Pacific Arts Plaza (Site 5) 675 Anton Boulevard	320' AMSL 287' AGL

- B. It is in the public interest to (1) provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to (2) promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to (3) prevent the creation of new noise and safety problems.

(1) To provide for the orderly development of John Wayne Airport (JWA) and the area surrounding the airport, the ALUC adopted the 2002 Airport Environs Land Use Plan (AELUP) on December 19, 2002. AELUP Section 2.2.1 sets standards and criteria based on the continuing operation of John Wayne Airport as a commercial and general aviation airport. The AELUP standards guide development proposals to best provide for orderly development of the airport and the area surrounding the airport through implementation of the standards in Section 2.2.1 for CNEL CONTOURS, ACCIDENT POTENTIAL ZONES/RUNWAY PROTECTION ZONES AND BUILDING HEIGHT RESTRICTIONS.

The ALUC staff report dated November 16, 2006, and prepared for the ALUC during its review of the proposed application, indicated that there is a basis for finding the proposed projects as conditionally consistent with the JWA AELUP. The ALUC staff report indicated that "ALUC staff has reviewed this project with respect to compliance

with the JWA AELUP, including review of noise, height restrictions, imaginary surfaces, flight track information and environmental compliance. Based upon staff's review of the North Costa Mesa High-Rise Residential Projects, including review of the FAA Determinations of No Hazard and review of past Consistency actions by the ALUC for projects in this area, there is a basis for finding the currently proposed projects, at the reduced maximum building heights, conditionally consistent with the Commission's JWA AELUP ... "The projects' compliance with Section 2.2.1 is established as follows:

- *CNEL CONTOURS* – The North Costa Mesa High-Rise Residential projects are outside the AELUP's Noise Impact Zone No. 1 (65 dB CNEL) and No. 2 (60 dB CNEL) noise contours, however the City project approval requires that the applicant meet City noise standards, which are consistent with the sound attenuation level of 45 dB CNEL included in the AELUP Section 3.3.6.
- *ACCIDENT POTENTIAL ZONES/RUNWAY PROTECTION ZONES* – The North Costa Mesa High-Rise Residential projects are outside of John Wayne Airport (JWA) Runway Protection Zones as depicted in Appendix D of the AELUP; the ALUC has not adopted any Accident Potential Zones for this airport because none could be justified with the available data.
- *BUILDING HEIGHT RESTRICTIONS* – As evidenced by a Federal Aviation Administration (FAA) Determination of "No Hazard to Navigation" issued for each of the proposed projects, the North Costa Mesa High-Rise Residential projects do not represent a hazard to air navigation. The FAA No Hazard Determinations modified the building heights as follows: (a) Maximum 308' above mean sea level for both Segerstrom Town Center buildings at 3400/3420 Bristol Street; (b) Maximum 306' above mean sea level for Orange County Museum of Art building at 605 Town Center; (c) Maximum 306' above mean sea level for The Californian at Town Center at 580 Anton Blvd.; (d) Maximum 306' and 206' above mean sea level for Symphony Towers at 585 Anton Blvd; (e) Maximum 320' above mean sea level for Pacific Arts Plaza at 675 Anton Blvd.

Section 2.2.1 also allows the ALUC to "consider utilization of criteria for protecting aircraft traffic patterns at the airport which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such action." The ALUC "will utilize the results of an Aeronautical Study, conducted by the FAA pursuant to FAR Part 77.13, in order to determine if a structure will have an adverse effect on the airport or on aeronautical operations."

The Council acknowledges that the Commission may utilize criteria for protecting aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such an action. However, the Council considered the FAA No Hazard Determination that the proposed buildings would not present a hazard to air navigation. In addition, Alan Murphy, Airport Director of John Wayne Airport, submitted a letter dated November 9, 2006 which expressed support that the Commission seriously consider a finding of Consistency for the proposed projects. Therefore, the City Council finds the ALUC's belief that the proposed projects would increase public exposure to safety hazards was not based on substantial evidence that was introduced, commented on, or identified in support of the incompatibility finding.

(2) The City of Costa Mesa requires that all development proposals meet the City's noise standards of 45 dB CNEL for the interior of residential uses, which is consistent with the standards established to promote the overall goals and objectives of the California airport noise standards. A condition has been placed on the project to demonstrate compliance with the City's noise standards before the City will issue each building permit for the project. Through implementation of the City's noise standards, the project meets the AELUP standards for California airport noise standards.

(3) The standards established in Section 2.2.1 of the AELUP were adopted to prevent the creation of new noise and safety problems. The proposed project complies with the standards established in Section 2.2.1 of the AELUP through compliance with the noise criteria for CNEL noise contours, and the proposed project is outside the 60 dB CNEL noise contour and accident potential zones/runway protection zones. The FAA has completed its review of the proposed buildings which are penetrating the Part 77 horizontal imaginary surface of 206' above mean sea level, and the FAA has determined the proposed buildings do not represent a hazard to air navigation. Section 2.2.1 of the AELUP also states that the ALUC has not adopted any Accident Potential Zones for this airport because none could be justified with the available data. By requiring project adherence to the established standards in the AELUP, the City has taken measures to assure risks to people and property on the ground, and to the occupants of aircraft, are held to a minimum.

- C. The Council considered Chairman Gerald Bresnahan's letter on behalf of the ALUC, dated December 15, 2006, in its entirety prior to rendering the final override decision. This letter provided additional comments, justifications, and information related to the ALUC Determination of inconsistency. As recommended in the ALUC's comment letter, Council has included a condition of approval requiring a buyer's notice of an airport in the vicinity of the proposed projects. However, the City Council finds that there was no substantial evidence presented in the ALUC comment letter or by or to the ALUC at its hearing(s) to support the ALUC's Determination of inconsistency as related to the above standard regarding criteria or aeronautical study.
- D. It is the purpose of Chapter 3.5 of the State Aeronautics Act to (1) protect public health, safety, and welfare by ensuring the orderly expansion of airports and the (2) adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.
- E. The Council considered the California Department of Transportation Division of Aeronautics comment letter, dated December 29, 2006, in its entirety prior to rendering the final override decision. The Caltrans Division of Aeronautics must find and determine that the override findings are in accordance with State law. Specifically, the Caltrans Division of Aeronautics must determine that the findings show evidence that the the city is minimizing the public's exposure to excessive noise and safety hazards within areas around public airports. In summary, Caltrans Division of Aeronautics concluded that the proposed override findings "adequately meet the criteria of Public Utilities Code Section 21670." Therefore, Caltrans Division of Aeronautics has determined that the City is in compliance with State law in its action to override the ALUC Determination, and the Council findings show evidence that the City of Costa Mesa is minimizing the public's exposure to excessive noise and safety hazards within the North Costa Mesa area around John Wayne Airport . Furthermore, as recommended by the Caltrans Division of

Aeronautics letter, Council has conditioned the proposed projects to comply with conditions of the FAA No Hazard Determinations.

- F. The Airport Environs Land Use Plan (AELUP) is based on the continuing operation of John Wayne Airport as a commercial and general aviation airport facility. The ALUC's authority to formulate land use plans is embodied in the John Wayne AELUP, which includes criteria in Section 2.2.1 to protect the public health, safety, and welfare by ensuring the orderly expansion of airports. The proposed North Costa Mesa High-Rise Residential projects, including General Plan Amendment and North Costa Mesa Specific Plan Amendment, meet the criteria set forth in the AELUP Section 2.2.1 as the standards and criteria for development in the airport environs area. Thus, the proposed projects provide a development plan for property that will protect the public health, safety, and welfare and ensure the orderly expansion of the airport. As acknowledged in the December 15, 2006 comment letter from the ALUC, the criteria in Section 2.2.1 would likely not be met for the proposed projects only "if other buildings were not present." Other buildings are present in the area in question which are as high or higher than those proposed in the projects. Thus, the criteria are met. Moreover, the ALUC's determination was apparently based on the speculative basis that that FAA could in the future modify the traffic pattern around the airport because of the project buildings. However, no such modification has occurred, and the FAA has not announced the intention to make such modification(s). This speculation cannot provide the basis for a determination of non-compliance.
- G. The standards and criteria established in Section 2.2.1 of the AELUP are adopted by the ALUC to minimize the public's exposure to excessive noise and safety hazards. The proposed project is consistent with the standards and criteria established in Section 2.2.1 of the AELUP. By meeting the criteria in Section 2.2.1 of the AELUP including criteria for noise, runway protection zones and building height restrictions, the proposed development will minimize the public's exposure to excessive noise and safety hazards within areas around public airports through subjection of the projects to conditions identified by the ALUC. The conditions require sound attenuation of noise impacts to meet City and California airport minimum standards, obstruction lighting and marking consistent with the FAA Advisory Circular 70/7460-1, "Notice of Airport in vicinity" to future occupants, outdoor signage depicting the presence of operating aircraft in community areas of the project, and the requirement to obtain an encroachment permit for the construction activities.
- H. Alan Murphy, Airport Director of John Wayne Airport, submitted a letter dated November 9, 2006 to the Orange County ALUC. The letter indicated that the City of Costa Mesa and JWA have reached agreement with respect to a general form for a Grant of Avigation Easement that will be dedicated to the County of Orange as proprietor of JWA, in connection with project approvals by the City. The letter also expressed support that the ALUC would seriously consider a finding of Consistency for the North Costa Mesa High Rise Residential projects.
- I. The City Council has imposed the recommended conditions of approval as suggested in the JWA Airport Director's letter of November 9, 2006, with the exception of a condition requiring that the City refer revised projects which request additional building height to the ALUC for review. Given the ALUC's finding of inconsistency for the currently proposed buildings, the City shall not impose this condition requiring future ALUC referral; however, the City shall continue to refer projects involving General Plan and Specific Plan amendments to the ALUC for review, as required by the JWA AELUP. Therefore, future revisions in building height that do not exceed the North Costa Mesa

Specific Plan limits (as shown in Table B below), that do not require a General Plan amendment, and that are submitted with a valid/current FAA No Hazard Determination, shall not require ALUC referral.

Table B NORTH COSTA MESA SPECIFIC PLAN HEIGHT LIMITS	
Project Site	Specific Plan Height Limit
Segerstrom Town Center buildings (Site 1) 3400 and 3420 Bristol Street	315' AGL
Orange County Museum of Art (Site 2) 605 Town Center Drive	315' AGL
The Californian at Town Center (Site 3) 580 Anton Boulevard	280' AGL
Symphony Towers (Site 4) 585 Anton Boulevard	306' AGL
Pacific Arts Plaza (Site 5) 675 Anton Boulevard	315' AGL

Attachment 3

Council Resolution for General Plan Amendment GP-06-02

RESOLUTION NO. 07-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF COSTA MESA, CALIFORNIA ADOPTING GENERAL
PLAN AMENDMENT GP-06-02 FOR THE NORTH COSTA
MESA HIGH-RISE RESIDENTIAL PROJECTS.**

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS
FOLLOWS:

WHEREAS, the City Council of the City of Costa Mesa adopted the 2000 General Plan
on January 22; 2002;

WHEREAS, the General Plan is a long-range, comprehensive document that serves as
a guide for the orderly development of Costa Mesa;

WHEREAS, by its very nature, the General Plan needs to be updated and refined to
account for current and future community needs;

WHEREAS, the proposed North Costa Mesa High Rise Residential projects analyzed in
Final Program EIR No. 1052 involve the construction of high-rise residential buildings by five
different developers at the following development sites: (a) 3400/3420 Bristol Street (Site 1 –
Segerstrom Town Center by South Coast Plaza Partners); (b) 605 Town Center Drive (Site 2 –
Orange County Museum of Art by Orange County Performing Arts Center); (c) 580 Anton
Boulevard (Site 3 – The Californian at Town Center by Fifield Properties); (d) 585 Anton
Boulevard (Site 4 – Symphony Towers by Sakioka/Stockbridge/South Coast/AMS Craig); and
(e) 675 Anton Boulevard (Site 5 – Pacific Arts Plaza by Maguire Properties);

WHEREAS, the proposed North Costa Mesa High Rise Residential projects include the
following discretionary approvals: (a) General Plan Amendment GP-06-02, (b) Zoning Code
Amendment CO-06-05; (c) North Costa Mesa Specific Plan Amendment SP-06-02, (d)
Preliminary Master Plan PA-05-53 for Segerstrom Town Center, (e) Preliminary Master Plan
PA-05-52 for Orange County Museum of Art, (f) Preliminary Master Plan PA-05-47 for
Symphony Towers, (g) Preliminary Master Plan PA-05-50 for Pacific Arts Plaza, (h) Final Master
Plan PA-05-45/Vesting Map VT-17017 for The Californian at Town Center;

WHEREAS, an amendment to the General Plan Land Use Element is required to allow for development of high-rise residential uses proposed at the five project sites analyzed in Final Program Environmental Impact Report (Program EIR) No. 1052 (SCH#2006011077);

WHEREAS, an amendment to the General Plan Noise Element is required for the application of exterior noise standards to common outdoor recreational amenity areas located on the ground level and exclusion of 65 dB exterior noise standard to common outdoor recreational amenity areas located on upper floors and to private outdoor patios/balconies;

WHEREAS, the proposed project was considered by the Orange County Airport Land Use Commission (ALUC) for consistency with the Airport Environs Land Use Plan (AELUP) at a public hearing on November 16, 2006, and General Plan Amendment GP-06-02 was found by the ALUC to be inconsistent with the AELUP;

WHEREAS, duly noticed public hearings were held by the Planning Commission on August 14, 2006 and September 11, 2006 and by the City Council on November 21, 2006 and January 16, 2007 to allow for public comment on the proposed project and with all persons having been given the opportunity to be heard both for and against the proposed project;

WHEREAS, pursuant to California Public Resources Code Section 21676, City Council adopted Resolution No. 06-93 notifying the ALUC of the City's intention to overrule the ALUC Determination, and this notice was provided 45 days in advance of the Council's action to overrule. Additionally, the ALUC and Department of Transportation Division of Aeronautics were given a 30-day comment period ending on December 29, 2006 to respond to the Council's intention to overrule;

WHEREAS, the City Council considered the ALUC's comment letter dated December 15, 2006 to the Council's intention to overrule the ALUC Determination and also considered all other information received by the City related to the proposed project prior to rendering its decision;

WHEREAS, the City Council also considered the California Department of Transportation Division of Aeronautics comment letter dated December 29, 2006 which indicated that the City's overrule findings complied with State law (Public Utilities Code Section 21670).

WHEREAS, the project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and Final Program EIR No. 1052 was prepared and available for public review from July 19, 2006 through September 1, 2006;

WHEREAS, the City Council has reviewed all environmental documents comprising the Final Program EIR and has found that the Final Program EIR considers all environmental impacts of the proposed project and a reasonable range of alternatives, and the Final Program EIR is complete and adequate and fully complies with all requirements of CEQA, the CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines;

WHEREAS, the Planning Commission recommended that City Council certify Final Program EIR No. 1052 by adopting Resolution No. PC-06-64 and approve the proposed General Plan amendment by adopting Resolution No. PC-06-65;

WHEREAS, pursuant to Public Utilities Code 21676, the City Council overruled the Orange County Airport Land Use Commission's Determination of inconsistency by separate resolution.

WHEREAS, the City Council certified Final Program EIR No. 1052 by adoption of Resolution No. 06-94 on November 21, 2006;

WHEREAS, pursuant to Public Utilities Code Section 21676, the City Council overruled the ALUC determination by separate resolution;

BE IT RESOLVED that, based on the evidence in the record, the City Council does hereby **APPROVE** General Plan Amendment GP-06-02 which amends the Land Use and Noise Elements as set forth in Exhibit "A" attached to this resolution;

BE IT FURTHER RESOLVED that the City Council has also considered and finds that the benefits of the project outweigh the unavoidable adverse impacts that remain after mitigation and does adopt the Statement of Facts and Findings (Exhibit "B") and Statement of Overriding Considerations (Exhibit "C"), as attached to this General Plan resolution.

PASSED AND ADOPTED this _____ day of _____, 2007.

ALLAN MANSOOR
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)

)SS

COUNTY OF ORANGE)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution No. 07-___ as considered at a regular meeting of said City Council held on the ___ day of _____, 2007, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ___ day of _____, 2007, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007.

Exhibit "A"

**Costa Mesa 2000 General Plan
Amended Land Use and Noise Element**

[NOTE: Please refer to the 11/21/2006 Council staff report for this Exhibit.]

Exhibit "B"

Statement of Facts and Findings

[NOTE: Please refer to the 11/21/2006 Council staff report for this Exhibit.]

Exhibit "C"

Statement of Overriding Considerations

[NOTE: Please refer to the 11/21/2006 Council staff report for this Exhibit.]

Attachment 4

Council Resolution for
North Costa Mesa Specific Plan Amendment
SP-06-02

RESOLUTION NO. 06-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF COSTA MESA, CALIFORNIA ADOPTING NORTH
COSTA MESA SPECIFIC PLAN AMENDMENT SP-06-02
FOR THE NORTH COSTA MESA HIGH-RISE
RESIDENTIAL PROJECTS.**

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS
FOLLOWS:

WHEREAS, the Planning Commission of the City of Costa Mesa adopted the North
Costa Mesa Specific Plan by Resolution No. 94-67 in July 1994;

WHEREAS, the North Costa Mesa Specific Plan provides additional planning guidelines
and standards for several large development areas located in north Costa Mesa;

WHEREAS, by its very nature, the North Costa Mesa Specific Plan needs to be updated
and refined to account for current and future community needs;

WHEREAS, Specific Plan Amendment SP-06-02 amends the North Costa Mesa
Specific Plan text and figures relative to Area 4 – South Coast Plaza Town Center, Area 5—The
Lakes, and Area 6 – South Coast Metro Center to account for proposed high-rise residential
projects;

WHEREAS, Specific Plan Amendment SP-06-02 relates, but is not limited to, land use
designations, trip budget, maximum allowable floor area ratio, and maximum allowable building
square footage, and development standards;

WHEREAS, the proposed project was considered by the Orange County Airport Land
Use Commission (ALUC) for consistency with the Airport Environs Land Use Plan at a duly-
noticed public hearing on November 16, 2006, and the North Costa Mesa Specific Plan
Amendment SP-06-02 was found by the ALUC to be consistent with the AELUP;

WHEREAS, duly noticed public hearings were held by the Planning Commission on
August 14, 2006 and September 11, 2006 and by the City Council on November 21, 2006 and
January 16, 2007 to allow for public comment on the proposed project and with all persons
having been given the opportunity to be heard both for and against the proposed project;

WHEREAS, pursuant to California Public Resources Code Section 21676, City Council adopted Resolution No. 06-93 notifying the ALUC of the City's intention to overrule the ALUC Determination, and this notice was provided 45 days in advance of the Council's action to overrule. Additionally, the ALUC and Department of Transportation Division of Aeronautics were given a 30-day comment period ending on December 29, 2006 to respond to the Council's intention to overrule;

WHEREAS, the City Council considered the ALUC's response dated December 15, 2006 to the Council's intention to overrule the ALUC Determination and also considered all other information received by the City related to the proposed project prior to rendering its decision;

WHEREAS, the City Council considered the ALUC's comment letter dated December 15, 2006 to the Council's intention to overrule the ALUC Determination and also considered all other information received by the City related to the proposed project prior to rendering its decision;

WHEREAS, the City Council also considered the California Department of Transportation Division of Aeronautics comment letter dated December 29, 2006 which indicated that the City's overrule findings complied with State law (Public Utilities Code Section 21670).

WHEREAS, the project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and Final Program EIR No. 1052 was prepared and available for public review from July 19, 2006 through September 1, 2006;

WHEREAS, the City Council has reviewed all environmental documents comprising the Final Program EIR and has found that the Final Program EIR considers all environmental impacts of the proposed project and a reasonable range of alternatives, and the Final Program EIR is complete and adequate and fully complies with all requirements of CEQA, the CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines;

WHEREAS, the Planning Commission recommended that City Council certify Final Program EIR No. 1052 by Resolution No. PC-06-64 and adopt the North Costa Mesa Specific Plan amendment by Resolution No. PC-06-66.

WHEREAS, the City Council certified Final Program EIR No. 1052 by adoption of Resolution No. 06-94 on November 21, 2006;

WHEREAS, the City Council overruled the ALUC determination and adopted by General Plan Amendment GP-06-02 by separate resolutions;

WHEREAS, the City Council deems it to be in the best interest of the City that said Specific Plan Amendment be adopted;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby **ADOPT** Specific Plan Amendment SP-06-02 that amends the text and figures of the North Costa Mesa Specific Plan as set forth in Exhibit A, which is attached to this resolution.

BE IT FURTHER RESOLVED that the adoption of Specific Plan Amendment SP-06-02 is expressly predicated on the General Plan Amendment GP-06-02 being final and effective.

PASSED AND ADOPTED this _____ day of _____, 2007.

ALLAN MANSOOR
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA))ss
COUNTY OF ORANGE)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution No. 07-___ as considered at a regular meeting of said City Council held on the ___ day of _____, 2007, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ___ day of _____, 2007, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007.

Exhibit "A"

North Costa Mesa Specific Plan

[NOTE: Please refer to the 11/21/2006 Council staff report for this Exhibit.]



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,

PLEASE CONTACT THE CITY CLERK'S OFFICE AT

(714) 754-5121